U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 29835003

Date: MAY 07, 2024

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, a post-doctoral research fellow in the neuroscience field, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Texas Service Center denied the petition, concluding that the Petitioner did not establish, as required, that she meets at least three of the ten evidentiary criteria set forth in the implementing regulations for this classification. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

An individual is eligible for the extraordinary ability immigrant classification under section 203(b)(1)(A) of the Act if: they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and their achievements have been recognized in the field through extensive documentation; they seek to enter the country to continue working in the area of extraordinary ability; and their entry into the United States will substantially benefit the country.

The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can provide evidence of a one-time achievement (that is, a major, internationally recognized award). If a petitioner does not submit this evidence, then they must provide documentation that they meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x) (including items such as awards, published material in

certain media, and scholarly articles). Where a petitioner demonstrates that they meet these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that they are among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination).

The Petitioner is a research scientist who was working as a post-doctoral research fellow in the neuroscience field for a U.S. medical school when the petition was filed. Because the Petitioner has not indicated or established that she has received a major, internationally recognized award, she must demonstrate that she satisfies at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). She claims that she meets the criteria at 8 C.F.R. § 204.5(h)(3)(iv), (v) and (vi).

The Director determined that the Petitioner satisfied two of the three claimed criteria. Specifically, the Director concluded that she has authored scholarly articles in her field and participated as a judge of the work of others in that field and thus satisfied the plain language of the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vi). The record supports the Director's conclusion that the Petitioner satisfied these two criteria.

On appeal, the Petitioner contends that the Director did not carefully review and consider the evidence submitted in support of her claim that she has made original contributions of major significance in her field, under 8 C.F.R. § 204.5(h)(3)(v).

Upon review, we agree that the Director's determination with respect to the criterion at 8 C.F.R. § 204.5(h)(3)(v) was conclusory and did not adequately address the Petitioner's specific claims and evidence. When denying a petition, the Director must explain in writing the specific reasons for denial. 8 C.F.R. § 103.3(a)(1)(i). This explanation should be sufficient to allow the Petitioner a fair opportunity to contest the decision and to allow us an opportunity for meaningful appellate review. *Cf., Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding at a decision must fully explain the reasons for denying a motion to allow the respondent a meaningful opportunity to challenge the determination on appeal). Here, the Director's decision, which relied in significant part on templated language, did not satisfy this requirement.

To meet the criterion at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must submit "[e]vidence of the [noncitizen's] original scientific, scholarly, artistic, athletic or business-related contributions of major significance in the field." In evaluating evidence submitted under this criterion, U.S. Citizenship and Immigration Services (USCIS) first determines whether a petitioner has made original contributions in their field. *See generally* 6 *USCIS Policy Manual*, F.2(B)(1), www.uscis.gov/policy-manual. If so, the Agency should then determination whether a petitioner's contributions are of "major significance." *Id.*

Here, the Director acknowledged that the Petitioner articulated her specific original contributions to the field and submitted supporting evidence that included eight letters from experts in her field, her citation history from Google Scholar, copies of published research and review articles that cite to her work, information regarding the journals where her research findings have been published, evidence intended to support her claim that some of her articles have been highly cited, and other evidence

intended to provide context to the nature and significance of her research contributions. While the Director noted the Petitioner's submission of this relevant evidence, it is difficult to discern what specific evidence the Director ultimately considered in their evaluation of this criterion, because the stated reasons for denial contain few, if any, references to the specific claims and supporting documentation she provided.

For example, the Director did not specifically address any of the eight letters submitted as expert testimony. Instead, the decision reaches a conclusory determination that the letters did not explain "how [the Petitioner's] research amounted to original work, and how her specific contributions to the research projects impacted the field as a whole." Detailed letters from experts in the field explaining the nature and significance of the person's contributions may provide valuable context for evaluating claims regarding original contributions of major significance. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). Here, the Director offered an inadequate explanation as to why they found the letters to be lacking in probative value.

The Director further acknowledged the Petitioner's claim that some citations to her work were "notable" but found, contrary to the evidence submitted, that there was "no evidence in the record" to support her claim. In fact, each of the submitted expert opinion letters addressed notable citations to the Petitioner's published work and commented on the significance of such citations. The Director also concluded that the record established only "a moderate number of citations to the petitioner's work," but did not explain that conclusion considering the Petitioner provided evidence indicating that at least two of her published articles were among the top 10 percent most cited in her field. Under USCIS policy, "documentation that [published research] has been highly cited relative to others' work in that field . . . may be probative of the significance of the person's contributions to the field of endeavor." 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

While the Director is not required to provide a detailed discussion of every piece of evidence the Petitioner submitted, the decision here was too general to convey that it was based on a reasoned consideration all relevant evidence in the record and did not adequately explain the specific reasons for denial. Accordingly, the Director's decision is withdrawn, and the matter will be remanded to the Director to re-evaluate the evidence submitted under the criterion at 8 C.F.R. § 204.5(h)(3)(v), and to issue a new decision.

If, after further review on remad, the Director determines that the Petitioner satisfies this third criterion, the new decision should include a final merits determination evaluating whether the Petitioner has demonstrated, by a preponderance of the evidence, her sustained national or international claim, that she is one of the small percentage at the very top of her field of endeavor, and that her achievements have been recognized in the field through extensive documentation. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.